

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1. (previously presented) A drive apparatus for performing a pseudo-overwrite recording for a write-once recording medium, wherein

the write-once recording medium includes a spare area and a user data area,

at least one track are allocated in the user data area,

the drive apparatus comprising:

a recording/reproduction section for performing a recording operation or a reproduction operation for the write-once recording medium; and

a drive control section for controlling the recording/reproduction section,

wherein the drive control section performs a process including:

receiving a recording instruction including a location at which data is to be recorded, wherein the location at which data is to be recorded is a location at which previous data is recorded;

determining a track among at least one tracks corresponding to the location included in the recording instruction;

when the determined track is a closed track or when the location included in the recording instruction is before the next writable address of the determined track, the process performed by the drive control section further includes:

controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction;

determining whether or not the recording of the data at the replacement location in the user data area has succeeded;

when the recording of the data at the replacement location in the user data area has failed, controlling the recording/reproduction section to record the data at a location in the spare area; and

generating replacement management information including at least the location included in the recording instruction or the replacement location in the user data area, and the location at

which the data is recorded in response to confirming that the recording of the data in the replacement location in the user data area or the location in the spare area has succeeded.

2. (Original) A drive apparatus according to claim 1, wherein  
the drive control section performs a process further including:  
determining whether or not the recording of the data at the location in the spare area has succeeded; and  
when the recording of the data at the location in the spare area has failed, controlling the recording/reproduction section to record the data in the spare area until the recording of the data in the spare area has succeeded.
3. (Original) A drive apparatus according to claim 1, wherein the determined track is an open track.
4. (Original) A drive apparatus according to claim 1, wherein the determined track is a closed track having an unrecorded area.

Claims 5-8 (Cancelled)